

## **FRAP 25**

### **FILING AND SERVICE**

**(a) Filing.**

**(1) Filing with the Clerk.** A paper required or permitted to be filed in a court of appeals must be filed with the clerk.

**(2) Filing: Method and Timeliness.**

**(A) In general.** Filing may be accomplished by mail addressed to the clerk, but filing is not timely unless the clerk receives the papers within the time fixed for filing.

**(B) A brief or appendix.** A brief or appendix is timely filed, however, if on or before the last day for filing, it is:

**(i)** mailed to the clerk by First-Class Mail, or other class of mail that is at least as expeditious, postage prepaid; or

**(ii)** dispatched to a third-party commercial carrier for delivery to the clerk within 3 calendar days.

**(C) Inmate filing.** A paper filed by an inmate confined in an institution is timely if deposited in the institution's internal mailing system on or before the last day for filing. If an institution has a system designed for legal mail, the inmate must use that system to receive the benefit of this rule. Timely filing may be shown by a declaration in compliance with 28 U.S.C. § 1746 or by a notarized statement, either of which must set forth the date of deposit and state that first-class postage has been prepaid.

**(D) Electronic filing.** A court of appeals may by local rule permit or require papers to be filed, signed, or verified by electronic means that are consistent with technical standards, if any, that the Judicial Conference of the United States establishes. A local rule may require

filing by electronic means only if reasonable exceptions are allowed.  
A paper filed by electronic means in compliance with a local rule  
constitutes a written paper for the purpose of applying these rules.  
(rev. 12-1-06)

- (3) **Filing a Motion with a Judge.** If a motion requests relief that may be granted by a single judge, the judge may permit the motion to be filed with the judge; the judge must note the filing date on the motion and give it to the clerk.
  - (4) **Clerk's Refusal of Documents.** The clerk must not refuse to accept for filing any paper presented for that purpose solely because it is not presented in proper form as required by these rules or by any local rule or practice.
  - (5) **Privacy Protection.** An appeal in a case whose privacy protection was governed by Federal Rule of Bankruptcy Procedure 9037, Federal Rule of Civil Procedure 5.2, or Federal Rule of Criminal Procedure 49.1 is governed by the same rule on appeal. In all other proceedings, privacy protection is governed by Federal Rule of Civil Procedure 5.2, except that Federal Rule of Criminal Procedure 49.1 governs when an extraordinary writ is sought in a criminal case. (eff. 12-1-07)
- (b) **Service of All Papers Required.** Unless a rule requires service by the clerk, a party must, at or before the time of filing a paper, serve a copy on the other parties to the appeal or review. Service on a party represented by counsel must be made on the party's counsel.

**(c) Manner of Service.**

**(1) Service may be any of the following:**

**(A) personal, including delivery to a responsible person at the office of counsel;**

**(B) by mail;**

**(C) by third-party commercial carrier for delivery within 3 calendar days; or**

**(D) by electronic means, if the party being served consents in writing.**

**(2) if authorized by local rule, a party may use the court's transmission equipment to make electronic service under Rule 25(c)(1)(D).**

**(3) When reasonable considering such factors as the immediacy of the relief sought, distance, and cost, service on a party must be by a manner at least as expeditious as the manner used to file the paper with the court.**

**(4) Service by mail or by commercial carrier is complete on mailing or delivery to the carrier. Service by electronic means is complete on transmission, unless the party making service is notified that the paper was not received by the party served.**

**(d) Proof of Service.**

**(1) A paper presented for filing must contain either of the following:**

**(A) an acknowledgment of service by the person served; or**

**(B) proof of service consisting of a statement by the person who made service certifying:**

**(i) the date and manner of service;**

**(ii) the names of the persons served; and (iii) their mail or**

electronic addresses, facsimile numbers, or the addresses of the places of delivery, as appropriate for the manner of service.

- (2) When a brief or appendix is filed by mailing or dispatch in accordance with Rule 25(a)(2)(B), the proof of service must also state the date and manner by which the document was mailed or dispatched to the clerk.
- (3) Proof of service may appear on or be affixed to the papers filed.
- (e) Number of Copies. When these rules require the filing or furnishing of a number of copies, a court may require a different number by local rule or by order in a particular case.

(As amended Mar. 10, 1986, eff. July 1, 1986; Apr. 30, 1991, eff. Dec. 1, 1991, Apr. 22, 1993, eff. Dec. 1, 1993; Apr. 29, 1994, eff. Dec. 1, 1994; Apr. 23, 1996, eff. Dec. 1, 1996; May 11, 1998; eff. Dec. 1, 1998; eff. Dec. 1, 2002; **eff. Dec. 1, 2007**)

**Cross Reference:** FRAP 26(c), Additional Time after Service by Mail; FRAP 40(a), Time for Filing Petition for Rehearing.